

REMARKS

Claims 1 - 20 remain pending in the application.

Claims 1-20 were rejected under 35 U.S.C. 102(e) as being anticipated by Chambers et al. (U.S. Patent # 5,884,052). Applicant respectfully traverses this rejection.

Applicant respectfully submits that Chambers fails to teach or suggest “wherein said response includes a delay value corresponding to said temporarily unavailable condition” as recited in claim 1. The Examiner contends that this feature is taught in col. 5, lines 45-55 of Chambers. Applicant submits that col. 5, lines 45-55, of Chambers teaches that a target device has a known internal access latency, which is referred to as the “delay input.” However, Chambers fails to teach that the “delay input” is sent in the response (i.e. retry) from the target device to the requesting device. Instead, Chambers teaches that the “delay input” is loaded into retry delay register 404 during a configuration access (e.g., system start up). (Chambers, Column 6, Lines 44-59 and Column 8, Lines 5-16) Also, Figure 7 of Chambers illustrates that the retry delay register 402 is configured (i.e., the delay input is loaded) before the transaction between the requesting device and the target device (block 701).

In accordance, claim 1 is believed to patentably distinguish over Chambers. Claims 2-7 depend on claim 1 and are therefore believed to patentably distinguish over Chambers for at least the reasons given above.

In addition, with regards to claim 3, Applicant respectfully submits that Chambers fails to teach or suggest “said second device is configured to generate said delay value according to a type of said temporarily unavailable condition.” The Examiner again contends that this feature is taught in col. 5, lines 45-55 of Chambers. Applicant submits that col. 5, lines 45-55, of Chambers teaches that a target device has a known internal access latency, which is referred to as the “delay input.” However, Chambers fails to teach that the target device generates the delay value according to the type of temporarily unavailable condition. In fact, Chambers fails to teach that the target generates

any delay values. Additionally, Applicant notes that, in one embodiment of Applicant's invention, the delay value may vary depending on the type of detected condition and based on other factors such as historical data from previous temporarily unavailable conditions or based on the number of outstanding responses. (see Applicant's Specification, Page 5, Lines 18-29) In Chambers, the "delay input" is a known internal access latency of a particular target device. (Chambers, Column 5, Lines 45-46)

In accordance, claim 3 is believed to patentably distinguish over Chambers for this additional reason. Claim 19 is similar to claim 3 and is therefore believed to patentably distinguish over Chambers for at least the reasons given above.

Also, with regards to claim 4, Applicant respectfully submits that Chambers fails to teach or suggest "said delay value corresponds to a first value in response to said temporarily unavailable condition corresponding to a first type of condition and wherein said delay value corresponds to a second value in response to said temporarily unavailable condition corresponding to a second type of condition." The Examiner again contends that this feature is taught in col. 5, lines 45-55 of Chambers. Applicant submits that col. 5, lines 45-55, of Chambers teaches that a target device has a known internal access latency, which is referred to as the "delay input." However, Chambers fails to teach that the delay value may vary depending on the type of detected condition and, in one embodiment, based on other factors such as historical data from previous temporarily unavailable conditions or the number of outstanding responses. (see Applicant's Specification, Page 5, Lines 18-29) Instead, Chambers teaches that the "delay input" is a known internal access latency of a particular target device. (Chambers, Column 5, Lines 45-46)

In accordance, claim 4 is believed to patentably distinguish over Chambers for this additional reason.

In addition, with regards to claim 5, Applicant respectfully submits that Chambers fails to teach or suggest "said second device is configured to calculate said delay value using one or more

variables that correspond to one or more previous temporarily unavailable conditions.” Applicant submits that Chambers fails to teach that the delay value may vary depending on the type of detected condition and based on other factors such as historical data from previous temporarily unavailable conditions or the number of outstanding responses. (see Applicant’s Specification, Page 5, Lines 18-29) Instead, Chambers teaches that the “delay input” is a known internal access latency of a particular target device. (Chambers, Column 5, Lines 45-46) The variable “n”, which is referenced by the Examiner, corresponds to this known internal access latency, which may vary from one target device to another.

In accordance, claim 5 is believed to patentably distinguish over Chambers for this additional reason. Claims 12 and 20 and are similar to claim 5 and are therefore believed to patentably distinguish over Chambers for at least the reasons given above.

Additionally, with regard to claim 7, Applicant respectfully submits that Chambers fails to teach or suggest “said policy layer is configured to cause an error recovery mechanism to be initiated in response to detecting that a retry limit corresponding to said first request is exceeded, and wherein said error recovery mechanism is configured to perform an action according to said response.” The Examiner contends that this feature is taught in col. 7, lines 6-50 of Chambers. Applicant submits that col. 7, lines 6-50, of Chambers teaches a method for implementing the retry delay process of the invention. However, Chambers fails to teach “**an error recovery mechanism to be initiated in response to detecting that a retry limit corresponding to said first request is exceeded.**” In fact, with reference to col 6, lines 1-43, of Chambers and Figure 7, Chamber fails to teach about an error recovery mechanism and about a retry limit, and Chambers teaches away from having a retry limit, for example, Block 708 of Figure 7 and col 6, line 1 of Chambers.

In accordance, claim 7 is believed to patentably distinguish over Chambers for this additional reason. Claims 14 and 17 are similar to claim 7 and are therefore believed to patentably distinguish over Chambers for at least the reasons given above.

Furthermore, claims 8 and 15 recite features similar to those highlighted above with regard to independent claim 1 and are therefore believed to patentably distinguish over Chambers for at least the reasons given in the above paragraphs discussing claim 1. Claims 9-14 and 16-20 depend on claims 8 and 15, respectively, and are therefore believed to patentably distinguish over Chambers for the same reasons.

In light of the foregoing amendments and remarks, Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited.

If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-38400/BNK.

Respectfully submitted,



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